

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

VICTORIA STARK-ROMERO, Individually and as
Personal Representative of the Estate
of FRED P. STARK,

Plaintiff,

and

EMILIO J. ESQUIBEL and HELEN G. ESQUIBEL,
Individually and as Co-Personal Representatives of the Estate of
MICHAEL S. ESQUIBEL, deceased,

Plaintiff-Intervenors,

vs.

No. CIV 10-0778 JB/RLP

THE NATIONAL RAILROAD PASSENGER
COMPANY (AMTRAK), BURLINGTON
NORTHERN SANTA FE RAILWAY
COMPANY (BNSF), CITY OF LAS VEGAS,
SAN MIGUEL COUNTY and NEW MEXICO
DEPARTMENT OF TRANSPORTATION, and
RIDE TO PRIDE AT THE BARN, L.L.C.,

Defendants.

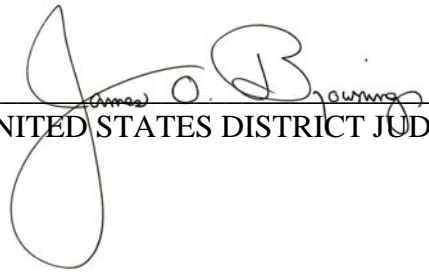
MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Plaintiffs Emilio J. Esquibel's and Helen G. Esquibel's request for an extension on the number of depositions and an extension for the expert deadline. The Court held a hearing on August 23, 2011. The primary issues are: (i) whether the Court should grant Plaintiffs Emilio J. Esquibel and Helen G. Esquibel's request for an extension of the number of depositions from fifteen depositions to twenty-five depositions; and (ii) whether the Court should extend the expert deadline, which was set for September 15, 2011, by thirty to forty-five days. The Esquibels have taken nine depositions so far, and they have noticed five more

depositions. The Esquibels can identify, at this point, six more people who they believe they need to depose. There are a lot of Defendants in this case, and the Esquibels have made a showing of good cause why several more depositions need to be taken. The Esquibels have represented that they wish to take depositions of several people from Defendant New Mexico Department of Transportation (“NMDOT”), and NMDOT does not appear to be concerned about the Esquibels deposing these people. The Plaintiffs have also identified a certain number of people they wish to depose from the railroad. For these reasons, and the reasons stated on the record at the hearing, the Court will grant the Esquibels’ request for an extension on the number of depositions to twenty-one depositions. While the Court understands the Esquibels desire to pad the request with more depositions than currently needed so that they do not have to come back to the Court, the Court has already allowed more depositions in this case than normally allowed. See Fed. R. Civ. P. 30 (“A party must obtain leave of court, and the court must grant leave . . . if the parties have not stipulated to the deposition and . . . the deposition would result in more than 10 depositions being taken . . . by the plaintiffs, or by the defendants, or by the third-party defendants[.]”). The Court will deny the Esquibel’s request for the additional four depositions for a total of twenty-five depositions without prejudice to them renewing their request. If, after the Esquibels have taken twenty-one depositions, it becomes clear that more depositions are necessary, the Esquibels can renew their request. The Court will grant an extension of the expert deadline. After the Court allowed the Esquibels to take more depositions, counsel for Defendant BNSF Railway Company (“BNSF”) and National Railroad Passenger Company d/b/a Amtrak (“Amtrak”), Tim Fields, stated BNSF and Amtrak would be amenable to a three or four week extension. Joan Waters, counsel for Defendant San Miguel County, stated San Miguel County did not object to a reasonable extension of time. Jerry Walz, counsel for NMDOT, stated that NMDOT did not object to a reasonable extension. Because there

appears to be, after the Court granted the Esquibels more depositions, an agreement among the parties on a thirty day extension, and for the reasons stated on the record at the hearing, the Court will extend deadlines by thirty days. The Esquibels must identify their experts by October 17, 2011. The Defendants must identify their experts by December 1, 2011. Discovery will end on January 2, 2012. Discovery motions are due by January 19, 2012. Pretrial motions are due by January 30, 2012. The Court sets a motion hearing on March 6, 2012. The Court sets a pretrial conference on March 30, 2012 at 9:00 a.m. The Court sets the trial on April 16, 2012 at 9:00 a.m. on the Court's trailing docket. The pretrial order is due from the Esquibels to the Defendants no later than March 22, 2012, and the pretrial order is due from the Defendants to the Court no later than March 29, 2012.

IT IS ORDERED that: (i) the Court will grant the Plaintiffs Emilio J. Esquibel and Helen G. Esquibel's request for an extension on the number of depositions to twenty-one depositions; (ii) the Court will deny the Esquibel's request for the additional four depositions for a total of twenty-five depositions without prejudice to them renewing their request; and (iii) the Court will extend deadlines by thirty days. The Esquibels must identify their experts by October 17, 2011. The Defendants must identify their experts by December 1, 2011. Discovery will end on January 2, 2012. Discovery motions are due by January 19, 2012. Pretrial motions are due by January 30, 2012. The Court sets a motion hearing on March 6, 2012. The Court sets a pretrial conference on March 30, 2012 at 9:00 a.m. The Court sets the trial on April 16, 2012 at 9:00 a.m. on the Court's trailing docket. The pretrial order is due from the Esquibels to the Defendants no later than March 22, 2012 and the pretrial order is due from the Defendants to the Court no later than March 29, 2012.



UNITED STATES DISTRICT JUDGE

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